

Amendment Under 37 CFR 1.116
Serial No. 10/824,247
Filed: April 13, 2004
Poker Game with Required Dealer Discard
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Attorney Docket No. PA1024.ap.US

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SUMMARY OF THE OFFICE ACTION

- 1) There is a four-way (4-way) restriction requirement amongst group I, (Claims 1-5); group II (claims 6-10); group III (claims 11-20); and group IV, claims 21-32).
- 2) Applicants have elected claims 1-5 (Group I) for prosecution on the merits, **with traverse.**
- 3) Claims 1-5 have been rejected under 35 USC 112, second paragraph, as indefinite.

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RESPONSE TO OFFICE ACTION

- 1) There is a four-way (4-way) restriction requirement amongst groups I. (Claims 1-5); group II (claims 6-10); group III; and group IV, claims 21-32).

Applicants again traverse the restriction requirement and are contemporaneously petitioning against the finality of the restriction requirement as it applies between claims 1-5, the elected claims, and claims 6-20 that have been restricted out of the Application.

The basis of the restriction requirement as set forth in the Final Action is that it is asserted that claim 1 recites a step with the player "placing 'one ante wager.'" It is then asserted that claims 6 and 11 are "...entirely different methods of playing wherein a player starts 'by placing *at least two* ante wagers'" It is asserted that "Amended claims 6 and 11 cannot be practiced without destroying the method of claim 1."

The reading of the claims is in error and both the factual and legal conclusion is in error.

Claim 1 actually recites as a step "...each player placing at least one ante wager to participate in the game;..." (**emphasis added**) Claims 6 and 11 do require that at least a second wager be placed to play the game. However, the language of claim 1 is clearly inclusive of the play and steps of claims 6 and 11 by way of the recitation of "...each player placing at least one ante wager to participate in the game;..." (**emphasis added**). At least one wager clearly is inclusive of exactly two or at least two wagers. The subsequently recited numbers of wagers in claims 6 and 11 **LIMIT** the scope of claim 1, which is a legal requirement as they have been made dependent from claim 1 in the previous response.

The further, more limiting recitations of claims 6 and 11 do not in any way, shape, form or interpretation "destroy" the method of claim 1. These are clearly and unambiguously dependent claims that further limit the scope of claim 1 as required by the Patent Laws and Rules.

The interpretation of the claims as in any way conflicting with a single invention are in error. The factual assertion for presenting the restriction requirement is in error and must be withdrawn. The legal basis for the restriction requirement as constituting a separate and distinct invention under 35 USC 101 is also in error. The restriction requirement must be withdrawn.

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The restriction between Groups I, II and II has been partially traversed by making the subject matter of groups II and III dependent from the subject matter of claim 1, the sole independent claim in Group I. Claims 21-32 have been cancelled as drawn to non-elected subject matter, applicants reserving the right to file a divisional application on the subject matter of those cancelled claims.

Claims 6-20 should be examined on the merits as they have been integrated into the subject matter of claims 1-5.

2) Claims 1-5 have been rejected under 35 USC 112, second paragraph as indefinite.

The claims have been amended to address these issues. This rejection has been overcome by the amendments to the claims, which amendments in general were unnecessary when conventional English usage is considered.

There Were Four (4) Issues Raised

1. The Issue of Lack of Antecedent Basis for "the rank" in Claim 1

It is to be further noted that the claims are not ambiguous, even without these amendments. Poker hands and cards in poker hands inherently **always** have rank. This is similar to a situation wherein one might recite "an atom, the mass of the atom being at least...", Atoms inherently have mass and having to recite "...an atom having a mass, the mass of the atom being at least..." is no less or more ambiguous than the first alternative.

Applicants have made the amendment to comply with the Examiner's preferences, but that amendment is not essential to a comprehension of the claims nor even to the clarity of the claims to one of ordinary skill in the art. The amendment merely shifts the position of the word "rank" within the claim and adds an indefinite article (a) instead of a definite article (the) before the word.

The amendment also does not add new matter, new issues or require additional search or consideration by the Examiner. The claims are in condition for allowance.

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2. Claim 5, the term "showing exposing one of the banker's cards" is unclear.

The Examiner specifically suggested an amendment to address this issue and that amendment has been made to claim 1. It is felt that one of ordinary skill in the art would have fully understood the original term, but in an effort to advance the prosecution of this Application, the amendment has been made.

3. The Term "poker-type" is asserted to be indefinite.

The term "poker-type" does not appear in claims 1-5 and those claims cannot be rejected on that basis. Claim 7, which is not presently under examination does have that term in two instances, and the claim has been appropriately amended.

This issue cannot be used a rejection of claims 1-5 as the term is not present in the claims.

4. Claim 4 is Asserted to Lack "structure for 1X"

The concept of "structure for the term (in its entirety of "...of at least 1X the ante wager ...)" is not understood. The language is clear on its face, as "X" is the universal sign for multiplication and the term 1X means "one times" as 2X would mean two times a value. The value is provided in the claim as "the ante wager," so the term in its entirety is clear and in compliance with 35 USC 112, second paragraph.


All issues have been addressed and overcome by amendment or by the discussion of the issue.

FILED ON BEHALF OF

ROGER M. SNOW
BY HIS REPRESENTATIVES

12 FEBRUARY 2007

MARK A. LITMAN & ASSOCIATES, P.A.
York Business Center, Suite 205, 3209 W. 76th St.
Edina, MN 55435 (952-832-9090)

By: 
Atty: Mark A. Litman
Reg. No. 26,39